

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 15039US02

PATENT

In the Application of:)
)
Jeyhan Karaoguz, et al.) **Electronically Filed On August 4, 2009**
)
Serial No.: 10/675,358)
)
Filed: September 30, 2003)
)
For: MEDIA PROCESSING SYSTEM)
COMMUNICATING ACTIVITY)
INFORMATION TO SUPPORT USER)
INTERACTION DURING MEDIA)
BROADCASTS)
)
Examiner: Duffield, Jeremy S.)
)
Group Art Unit: 2427)
)
Confirmation No.: 5972)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Date: August 4, 2009

By: /Joseph M. Butscher/
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Reg. No. 48,326

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REMARKS

The present application includes pending claims 1-38, all of which have been rejected. Claims 1, 3-15 and 24 and 26-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,813,775 (“Finseth”) in view of U.S. 6,774,926 (“Ellis”). Claims 16-23 and 33-38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 7,065,778 (“Lu”) in view of Finseth and Ellis. Claims 2 and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of Ellis and Lu.

The proposed combination of Finseth and Ellis does not render independent claim 1 or the claims that depend therefrom unpatentable. *See* April 1, 2009 Amendment at pages 12-19.

The Office Action indicates that Finseth “does not clearly teach receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from a second user to the first user.” *See* ay 28, 2009 Office Action at page 5. In an attempt to overcome this deficiency the Office Action relies on Ellis. *See id.* However, the Applicants demonstrate that Ellis does not over the deficiencies of Finseth. *See id.* at pages 13-14.

In general, Ellis does not describe, teach or suggest that a viewer requests content directly from a contributor. Further, as noted above, the Office Action acknowledges that Finseth “does not clearly teach receiving a media request from the first user via a communication network, wherein the media request relates to media of the second user.” *See* May 28, 2009 Office Action at page 5. The Office Action has not demonstrated that either Finseth, nor Ellis, alone or in combination with one another, describes, teaches or suggests “receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from the second user to the first user,” as recited in

claim 1. Thus, for at least these reasons, the Office Action has not established a *prima facie* case of unpatentability with respect to claims 1-10.

Additionally, with the exception of “receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from the second user to the first user,” the Office Action seemingly asserts that Finseth discloses all the limitations of claim 1. *See* May 28, 2009 Office Action at pages 4-5.

However, the Office Action has not demonstrated that Finseth discloses “notifying the second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic,” as recited in claim 1. *See* April 1, 2009 Amendment at pages 15-19. Thus, for at least this additional reason, the Office Action has not established a *prima facie* case of unpatentability with respect to claims 1-10.

The Applicants respectfully submit that the Office Action has also not established a *prima facie* case of unpatentability with respect to claims 11, 24 or the claims that depend therefrom. *See id.* at page 20.

The Commissioner is authorized to charge any necessary fees, including the \$540 fee for the Notice of Appeal, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: August 4, 2009

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